

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES D. PIERON, JR.,

Defendant.

Case No. 18-cr-20489 (TLL)(PTM)
Hon. Thomas L. Ludington

DEFENDANT’S MOTION TO FILE UNDER SEAL

Defendant James D. Pieron, Jr. (“Pieron”) respectfully moves under Local Rule 5.3 to file under seal the unredacted exhibits (the “Unredacted Exhibits”) in support of Pieron’s Motion for Judgment of Acquittal (the “Acquittal Motion”) and his Motion for a New Trial (the “New Trial Motion”). In addition, as requested by this Court, Pieron moves to file his response to the government’s tax position under seal.

Placeholder exhibits have been filed with the contemporaneously filed Acquittal Motion and New Trial Motion and the Unredacted Exhibits have been filed as sealed exhibits for the Court’s review. Pieron is not aware of any objection by any party to filing this document under seal. While Pieron’s interests would be gravely affected if the protected portions of the Unredacted Exhibits were publicly

disclosed, Pieron is not aware of any non-party or third-party interests that may be affected by such disclosure. While the personal and financial information in the Unredacted Exhibits is protected under the Federal Rules to Criminal Procedure, to Pieron's knowledge, it has not previously been designated as "confidential" under a protective order. However, this Court has previously required the filing under seal of documents containing similar information in this case.

The reasons and legal authority for this Motion are set forth in the below Memorandum in Support which is attached hereto and incorporated herein fully by reference. A proposed order granting the Motion is attached hereto as Exhibit 1.

Respectfully submitted,

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Dated: May 15, 2019

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES D. PIERON, JR.,

Defendant.

Case No. 18-cr-20489 (TLL)(PTM)
Hon. Thomas L. Ludington

**MEMORANDUM IN SUPPORT OF
MOTION TO FILE UNDER SEAL**

INTRODUCTION

By this Motion, Pieron seeks to protect from disclosure by filing under seal certain personal and financial information contained in the Unredacted Exhibits that is protected under Federal Rule of Criminal Procedure 49.1. Rule 49.1 primarily concerns the redaction of personal identifying information, however, courts have held that in circumstances of voluminous redactions where the document is entirely comprised of redactable content, filing the document under seal is appropriate. *See United States v. Threadgill*, No. 3:11-CR-86, 2012 WL 5384813, at *4 (E.D. Tenn. Nov. 1, 2012). The specific information that Pieron seeks to be protected from disclosure, and the reasons for filing the Unredacted Exhibits under seal, are set forth below.

PIERON'S PERSONAL AND FINANCIAL INFORMATION

Defendants seek to file the following documents under seal:

Document/ Exhibit	Description
Ex. B to Acquittal Motion	Gov. Ex. 45
Ex. C to Acquittal Motion	Gov. Ex. 46

Ex. D to Acquittal Motion	Gov. Ex. 47
Ex. E to Acquittal Motion	Gov. Ex. 102
Ex. F to Acquittal Motion	Gov. Ex. 19
Ex. G to Acquittal Motion	Gov. Ex. 129
Ex. 2 to New Trial Motion	Gov. Ex. 40
Ex. 3 to New Trial Motion	Gov. Ex. 42
Ex. C to Ex. 4 to New Trial Motion	Exhibit C to the Fred Gavin Declaration
Ex. 5 to New Trial Motion	Gov. Ex. 138
Ex. 6 to New Trial Motion	Gov. Ex. 65
Ex. 7 to New Trial Motion	Gov. Ex. 119,

Ex. 8 to New Trial Motion	Gov. Ex. 68
Ex. 9 to New Trial Motion	Gov. Ex. 18
Ex. 10 to New Trial Motion	Gov. Ex. 115
Ex. 11 to New Trial Motion	Gov. Ex. 129
Ex. 12 to New Trial Motion	Gov. Ex. 102
Ex. 13 to New Trial Motion	Gov. Ex. 70
Ex. 14 to New Trial Motion	Gov. Ex. 114
Ex. 15 to New Trial Motion	Gov. Ex. 120D
Ex. 17 to New Trial Motion	Gov. Ex. 109
Ex. 18 to New Trial Motion	Gov. Ex. 112

Ex. 19 to New Trial Motion	Gov. Ex. 134
Ex. 20 to New Trial Motion	Gov. Ex. 175
Ex. 21 to New Trial Motion	Gov. Ex. 107B
Ex. 22 to New Trial Motion	Gov. Ex. 130
Ex. 23 to New Trial Motion	Gov. Ex. 108B
Ex. 24 to New Trial Motion	Gov. Ex. 120F
Ex. 25 to New Trial Motion	Gov. Ex. 121C
Ex. 26 to New Trial Motion	Gov. Ex. 128
Ex. 27 to New Trial Motion	Gov. Ex. 169
Ex. 28 to New Trial Motion	Gov. Ex. 176

Ex. 29 to New Trial Motion	Gov. Ex. 168
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The Unredacted Exhibits contain confidential information that should be protected from public disclosure, including the parties' financial information, identifying information, dates of birth, financial account numbers, and home addresses. Review of the Unredacted Exhibits is necessary for the Court's consideration of Defendant's Acquittal Motion and New Trial Motion. Defendants therefore request that they be allowed to file these materials under seal.

The E-Government Act of 2002 (which led to the adoption of Rule of Criminal Procedure 49.1 and its civil procedure counterpart, Rule 5.2) addresses privacy concerns about sensitive and personal identifying information in court documents and provides for redaction or filing under seal to protect such information. Rule 49.1 directs that filings on criminal matters must redact personal identifying information, including Social Security numbers, taxpayer-identification numbers, birth dates, the names of minors, financial account numbers, and home addresses. This Court's local rules also provide for sealing or redaction to protect sensitive or personal identifying information.

All documents filed with the court, including trial exhibits, are subject to the redaction requirement. See Fed. R.Crim. P. 49.1 (Advisory Committee Note, 2007

amendments) (“Trial exhibits are subject to the redaction requirements of Rule 49.1 to the extent they are filed with the court.”).

“It may also be necessary to protect information not covered by the redaction requirement ... in a particular case.” *Id.* “The court may order that a filing be made under seal without redaction.” Fed. R.Crim. P. 49.1(d). For good cause shown, the court may order redaction of additional information or limit or prohibit a nonparty's remote electronic access to a court filing. Fed. R.Crim. P. 49.1(e).

The Unredacted Exhibits contain numerous instances of Pieron's social-security number, birth date, home address, and private financial information. The volume of such records would make effective redaction difficult. *See United States v. Threadgill*, No. 3:11-CR-86, 2012 WL 5384813, at *4 (E.D. Tenn. Nov. 1, 2012)(“ [U]nderstanding the burden of examining thousands of pages for redactable content, the Court further orders that the documents that contain financial-account information be FILED UNDER SEAL”). Defendant therefore requests that he be allowed to file these materials under seal

CONCLUSION

For the foregoing reasons, Pieron respectfully requests that it be allowed to file under seal the Unredacted Exhibits, as well as Pieron's response to the government's tax position, as described above.

Respectfully submitted,

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Dated: May 15, 2019

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2019, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

/s/ Patrick J. Hurford

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